

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MATTHEW VOGT,

Plaintiff, 3:14-cv-01222-PK

v. OPINION AND ORDER

JEFFERSON COUNTY RECORDER'S
OFFICE,

Defendant.

PAPAK, Magistrate Judge:

Plaintiff Matthew Vogt filed this *pro se* action *in forma pauperis* against Defendant Jefferson County Recorder's Office on July 31, 2014. Now before the court is Plaintiff's Motion

for Default Judgment and Relief (#37), seeking an entry of default judgment in his favor based on to Federal Rule of Civil Procedure (“Rule”) 55.¹

“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.” Fed.R.Civ.P. 55(a). Whether to grant a judgment by default is within the discretion of the district court. *See Draper v. Coombs*, 792 F.2d 915, 924 (9th Cir. 1986). Factors which may be considered by the district court in exercising its discretion to enter default judgment include:

- (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiffs substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the action, (5) the possibility of a dispute concerning material facts, (6) whether the default was due to excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986). Default judgments are ordinarily disfavored. *See id.* at 1472.

Plaintiff argues, without support, that “[n]o motion or answer was delivered timely” and he is therefore entitled to relief. Pl.’s Motion, #37, 1. However, the record reflects that Defendant timely filed its Answer (#32) on June 11, 2015 prior to the June 12, 2015 due date (#34). Additionally, Defendant declares that the answer was mailed to Plaintiff at his correct address and return mail was not received. Decl. of Theresa Franz, #40. Upon analysis of the record, Plaintiff’s motion is without merit.

¹ Plaintiff improperly moves under Rule 12.

CONCLUSION

For the foregoing reasons, Plaintiff's Motion for Default Judgment (#37) is denied.

IT IS SO ORDERED

Dated this 17th day of August, 2015.



Honorable Paul J. Papak
United States District Judge